

ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
DUBLIN DIVISION

FILED  
U.S. DISTRICT COURT  
AUGUSTA DIV.

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SO. DIST. OF GA.

DESI LEE HYMAN JACKSON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CV 313-076
	)	
ANNETTIA TOBY, et al.,	)	
	)	
Defendants.	)	

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**ORDER**

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After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge's Report and Recommendation ("R&R"), to which objections have been filed (doc. no. 11). The Magistrate Judge recommended dismissal of Plaintiff's complaint without prejudice for failure to exhaust administrative remedies. (Doc. no. 9.) In his objections, Plaintiff states that he did not have the opportunity to grieve this issue because grievance forms were not available to him in segregation, the law library aide told him he could file the issue directly with the Court, and he even wrote to the "Office of Inmate Affairs, Investigation, and Compliance," but received no response. (Doc. no. 11.) For these reasons, he also requests leave to fulfill the exhaustion requirement. (*Id.*)

Because the Court has no discretion to waive the exhaustion requirement, even if it can be shown that the grievance process is futile or inadequate, Plaintiff's objections lack merit. See Alexander v. Hawk, 159 F.3d 1321, 1325-26 (11th Cir. 1998).

Moreover, because exhaustion of remedies is a “precondition” to filing an action in federal court, Plaintiff had to complete the entire administrative grievance procedure *before* initiating this suit. Poole v. Rich, 312 F. App’x 165, 166 (11th Cir. 2008) (*per curiam*); *see also* Higginbottom v. Carter, 223 F.3d 1259, 1261 (11th Cir. 2000) (*per curiam*).

Accordingly, the Report and Recommendation of the Magistrate Judge is **ADOPTED** as the opinion of the Court. Therefore, Plaintiff’s complaint is **DISMISSED** without prejudice for failure to exhaust administrative remedies and this civil action is **CLOSED**.

SO ORDERED this 3rd day of March, 2014, at Augusta, Georgia.

  
UNITED STATES DISTRICT JUDGE